

BEFORE THE FISH, WILDLIFE AND PARKS COMMISSION  
OF THE STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF DECISION ON  
ARM 12.11.2204 pertaining to a no ) PROPOSED AMENDMENT  
wake zone on Echo Lake )

To: All Concerned Persons

1. On January 29, 2009 the Fish, Wildlife and Parks Commission (commission) published MAR Notice No. 12-350 pertaining to the proposed amendment of the above-stated rule at page 53 of the 2009 Montana Administrative Register, Issue Number 2.

2. A public hearing on the notice of proposed amendment of the above-stated rule was held on February 19, 2009.

3. The commission has not adopted the amendment of the above-stated rule.

4. The commission has thoroughly considered the comments and testimony received. A summary of the comments received and the commission's responses are as follows:

Comment 1: The commission received several comments stating that starting and dropping a water-skier in order to slow down to a no wake speed is unsafe.

Response 1: The commission has not adopted the proposed rule amendment due to safety concerns. All rules and regulations to ensure the safety of water-skiers are still in effect and will be enforced. Concerns for the safety of a water-skier being dropped in the open water outside of the corridor can be further addressed by the boat pulling the skier into shore at the entrance of the corridor, motoring at a no wake speed through the corridor to the shoreline on the other end, and pulling the skier from shore into the open water.

Comment 2: One person commented that a bigger wake is created when slowing down from a plane speed causing more damage to shore lines and docks.

Response 2: The commission recognizes that a bigger wake is created when slowing down from a plane speed. The wake made by a motorized vessel slowing down to a no wake speed prior to entering a corridor is dispersed through a larger body of water reducing the disturbance to the shore. Driving at a wake speed through the channel results in a wake hitting the shoreline throughout the entire channel.

Comment 3: One person stated they believed the commission adopted the 200 foot no wake zone for larger lakes like Flathead Lake and not for smaller lakes such as Echo Lake.

Response 3: In October of 2000, the commission adopted ARM 12.11.115 for all lakes greater than 35 acres in the Western Fishing District. For lakes 35 acres or less, ARM 12.11.110 requires a controlled no wake speed for the entire lake.

Comment 4: Several people stated that adoption of the proposed rules would result in a consistent exemption on the four main bays of Echo Lake and if the proposed rules are not adopted, boaters new to Echo Lake will not know where the exemptions and no wake zones exist.

Response 4: The commission recognizes that adoption of the proposed rules would result in a consistent exemption with other previously adopted exemptions. However, the restrictions are posted on a map at the fishing access site and in the annual boating regulations. It is the responsibility of the operator of a motorized vessel to know and understand all laws pertaining to the location of the recreational activity and are encouraged to contact the local game warden or Fish, Wildlife and Parks office with any questions or concerns.

Comment 5: Several people stated that the proposed rules would allow for travel from the bays to the main body of the lake decreasing congestion and increasing safety.

Response 5: It is with safety in mind that this decision has been made. Many of the activities that take place near shore include swimming, fishing from shore or docks, and operation of manually powered vessels. The commission has decided not to repeal the 200 foot no wake zone in the corridors to protect the safety of individuals engaging in these activities.

Comment 6: One person stated that the commission's decision should not consider the safety of swimmers near the corridor when making a final decision because children and adults should not be allowed to swim in the entrance of the bay.

Response 6: Montana's water bodies are open to many forms of recreational activities including swimming. Montana does not have a law prohibiting swimming in the narrow channel but does have laws regarding negligent operation of a motorized vessel in a manner which may endanger the personal health of any person.

Comment 7: One person stated that since the repeal of the no wake zone in the corridor to Causeway Bay in 2008, more conflict between fisherman and motorized vessel operators has increased.

Response 7: The commission is unaware of an increased number of complaints in that area. The Fish, Wildlife and Parks enforcement personnel is available to address any complaints.

Comment 8: One person commented that the wave action has increased since the repeal of the no wake zone in the corridor to Causeway Bay in 2008 and people are unable to sit on or swim around the docks due to increased safety risks.

Response 8: The local Fish, Wildlife and Parks personnel have reported that wave action has increased since the repeal of the no wake zone in that area. The commission considered this safety concern when making its decision.

Comment 9: Several people stated the proposed changes will increase hazardous conditions between slow moving watercraft and motorized watercraft.

Response 9: The commission considered this safety concern when making its decision.

Comment 10: Several people stated that dropping and picking up skiers in the middle of the lake should not be a determining factor to this decision because skiers fall off rope in the middle lake and need to be picked up no matter where the skier starts or finishes.

Response 10: The commission considered all public comment before making this decision. Please see Response 1.

Comment 11: One person stated that erosion already exists because of exposed shoreline and the proposed rules will increase the erosion and recommended the commission consider the recommendations of Fish, Wildlife and Parks staff and county and state environmental officials about the environmental repercussions of the proposed rules.

Response 11: The commission considered all public comment and recommendations of staff and county environmental officials before making its decision.

Comment 12: Several people stated that the commission should not continue to make exceptions to the no wake zone because the public lake will become a privately regulated lake without a no wake zone.

Response 12: ARM 12.11.117 outlines the public's right to petition the commission for exemptions to the no wake zone. The commission published proposed rules in order to gather public comment and the commission considered all public comment before making its decision.

Comment 13: Two people stated that not all users of Echo Lake live there and are unaware of the fluctuating water levels and the safety risks involved with the lake.

Response 13: The commission considered the fluctuating water levels on Echo Lake and the safety risks involved when making its decision.

Comment 14: One person stated that the commission should not evaluate the proposed rules by whether or not there have been any injuries or deaths on the land and the commission should not wait until there is an injury or death.

Response 14: The commission recognizes that there has been no reported accidents on Echo Lake attributable to speed in the narrow channels. The commission did evaluate all public comments and safety concerns before making its decision.

/s/ Shane Colton

Shane Colton, Chairman  
Fish, Wildlife and Parks Commission

/s/ Rebecca Jakes Dockter

Rebecca Jakes Dockter  
Rule Reviewer

Certified to the Secretary of State May 18, 2009.